

### **Remarks**

This Amendment is in response to the Final Office Action dated **March 26, 2007**. In the Final Office Action, claims 1-13 were rejected under 35 USC 102(b) as being anticipated by Richardson (5,083,039).

### **Finality of the Final Office Action**

Applicant requests Examiner to reconsider the finality of the Office Action dated March 26, 2007. Under MPEP 706.07(a) “second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).” The Office Action states that “Applicant’s arguments with respect to claim 1 and 11 have been considered but are moot in view of the new ground(s) of rejection.” Therefore Applicant asserts that this Office Action should be a non-final Office Action.

MPEP 706.07(d) states that “[i]f, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection.” Applicant requests reconsideration of the finality of the Office Action dated March 26, 2007 and requests withdrawal of the finality of the rejection.

### **35 USC 102**

In the Final Office Action, claims 1-13 were rejected under 35 USC 102(b) as being anticipated by Richardson (5,083,039).

Applicant has added new claim 14 which is a combination of claims 1 and 2. No new matter has been added.

Applicant has submitted herewith a replacement drawing for Fig. 1 in which duplicative reference numerals were corrected. Specifically, Applicant noted that reference numeral 30 was used for both the data network and the azimuthal drive. In Replacement Fig. 1, the reference numeral for the azimuthal drive was amended to reference numeral 31. The specification was also amended to reflect the new reference numeral for the azimuthal drive. No

new matter has been added. Applicant apologizes for any misunderstanding caused by the duplicative reference numerals.

The Office Action asserts that:

Richardson discloses a variable speed wind turbine comprising: a wind power installation for generating electrical energy with at least two components (42, 44) each of the at least two components respectively have sensors (44,42) and comprise a control unit (38,40), each of the control units being connected to a data network (46, see col. 6, line 41) and exchanging with the control units of the other components, for the operating conditions of the components, detected sensor (42,44) values and/or control signals for the other components.

Independent claim 1 as amended and new claim 14 recite “the data network being used for *interconnecting* the at least two control units and for *exchanging* signals for the operating conditions of the components, detected sensor values and/or control signals for the other components, with the control units of the other components.” Similarly, independent claim 11 recites “at least two control units, each of the at least two control units comprising a component and controlling at least one device ... each of the at least two control units being connected to a data network, each of the at least two control units *using the data network to exchange data with one another*” (emphasis added).

As recited in independent claims 1, 11 and 14, the data network functions to interconnect the at least two control units and to exchange data between the at least two control units, the data network does not function to generate data. Applicant notes that the data network in Replacement Fig. 1, submitted herewith, is indicated by reference numeral 30. The Office Action asserts that the torque command device 46 of Robinson is a data network. However, according to Robinson, the torque command device 46 generates data: “[t]he torque command device 46 ... *generates* torque control signals to the generator controllers 38 and 40 and pitch angle control signals to a pitch control unit 48” (col. 5, lines 47-50, emphasis added, and col. 5, line 65 to col. 6, line 2). Therefore, Richardson does not teach or suggest a data network being used for interconnecting the at least two control units and for exchanging signals/data, as recited in the instant independent claims.

Independent claim 14 further recites “each control unit of a component

exclusively controlling the component.” Thus, the wind power installation does not have any central control units. As discussed above, the torque command device 46 of Richardson controls at least the generator controllers and the pitch control unit, thereby acting as a central control unit, contrary to independent claim 14.

For at least these reasons, Applicant requests withdrawal of the rejection and asserts that claims 1-14 are in condition for allowance.

**Conclusion**

Based on at least the above, Applicant respectfully submits that this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-14 is requested.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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Date: May 25, 2007

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